IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Ashkenazi et al.	Docket No:	39780-2630P1C3
Serial No:	09/978,299	Group Art Unit:	1646
Filed:	October 15, 2001	Examiner:	Turner, Sharon L.

For: **SECRETED AND TRANSMEMBRANE POLYPEPTIDES AND NUCLEIC ACIDS ENCODING THE SAME**

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

DECLARATION OF KEVIN BAKER, Ph.D.,

AUSTIN GURNEY, Ph.D., and TIMOTHY STEWART, Ph.D.,

UNDER 37 CFR 1.131

We, Kevin Baker, Ph.D., Austin Gurney, Ph.D., and Timothy Stewart, Ph.D., declare and say as follows:

1. We are the inventors of the above-identified application.

2. We have read and understood the claims pending in this application, and are aware that the claims have been rejected as anticipated by PCT Publication WO 99/61471 (Tang *et al.*, publication date December 2, 1999)

3. The polypeptide designated as PRO195 (SEQ ID NO:330) claimed in the above-identified application in the United States was sequenced and cloned prior to December 2, 1999.

4. U.S. Provisional Application No. 60/081,817, filed on April 15, 1998 discloses sequences designated as SEQ ID NO:1 and SEQ ID NO:3, which are identical to SEQ ID NO:329 and SEQ ID NO:330, respectively, of the above-identified application.

5. We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information or belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001

of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

Kevin Baker, Ph.D.	Date
Austin Gurney, Ph.D.	Date
Timothy Stewart, Ph.D.	Date

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prepared by making a 1:100 dilution of Label Concentrate (40 pmoles/μl) in AL Hybridization Buffer. After the 10-minute cool-down period, the amplifier hybridization mixture was removed and the plates were washed twice with Wash A. 50 μl of Label Probe Working Solution was added to each well and the wells were incubated at 53 °C for 15 minutes. After cooling for 10 minutes, the Substrate was warmed to room temperature. Upon addition of 3 μl of Substrate Enhancer to each ml of Substrate needed for the assay, the plates were allowed to cool for 10 minutes, the label hybridization mixture was removed, and the plates were washed twice with Wash A and three times with Wash D. 50 μl of the Substrate Solution with Enhancer was added to each well. The plates were incubated for 30 minutes at 37°C and RLU was read in an appropriate luminometer.

The replicates were averaged and the coefficient of variation was determined. The measure of activity of the fold increase over the negative control (Protein 32/HEPES buffer described above) value was indicated by chemiluminescence units (RLU). The results are considered positive if the PRO polypeptide exhibits at least a two-fold value over the negative buffer control. Negative control = 1.00 RLU at 1.00% dilution. Positive control = 8.39 RLU at 1.00% dilution.

The following PRO polypeptides tested positive in this assay: PRO938, PRO200, PRO865, PRO788 and PRO1013.

EXAMPLE 116: Proliferation of Rat Utricular Supporting Cells (Assay 54)

This assay shows that certain polypeptides of the invention act as potent mitogens for inner ear supporting cells which are auditory hair cell progenitors and, therefore, are useful for inducing the regeneration of auditory hair cells and treating hearing loss in mammals. The assay is performed as follows. Rat UEC-4 utricular epithelial cells are aliquoted into 96 well plates with a density of 3000 cells/well in 200 μl of serum-containing medium at 33°C. The cells are cultured overnight and are then switched to serum-free medium at 37°C. Various dilutions of PRO polypeptides (or nothing for a control) are then added to the cultures and the cells are incubated for 24 hours. After the 24 hour incubation, ^{3}H-thymidine (1 μCi/well) is added and the cells are then cultured for an additional 24 hours. The cultures are then washed to remove unincorporated radiolabel, the cells harvested and Cpm per well determined. Cpm of at least 30% or greater in the PRO polypeptide treated cultures as compared to the control cultures is considered a positive in the assay.

The following polypeptide tested positive in this assay: PRO337, PRO363 and PRO1012.

EXAMPLE 117: Detection of PRO Polypeptides That Affect Glucose or FFA Uptake by Primary Rat Adipocytes (Assay 94)

This assay is designed to determine whether PRO polypeptides show the ability to affect glucose or FFA uptake by adipocyte cells. PRO polypeptides testing positive in this assay would be expected to be useful for the therapeutic treatment of disorders where either the stimulation or inhibition of glucose uptake by adipocytes would be beneficial including, for example, obesity, diabetes or hyper- or hypo-insulinemia.

In a 96 well format, PRO polypeptides to be assayed are added to primary rat adipocytes, and allowed to incubate overnight. Samples are taken at 4 and 16 hours and assayed for glycerol, glucose and FFA uptake. After the 16 hour incubation, insulin is added to the media and allowed to incubate for 4 hours. At this time, a

sample is taken and glycerol, glucose and FFA uptake is measured. Media containing insulin without the PRO polypeptide is used as a positive reference control. As the PRO polypeptide being tested may either stimulate or inhibit glucose and FFA uptake, results are scored as positive in the assay if greater than 1.5 times or less than 0.5 times the insulin control.

The following PRO polypeptides tested positive as stimulators of glucose and/or FFA uptake in this assay: PRO181, PRO200, PRO337, PRO362, PRO363, PRO731, PRO534, PRO1114 and PRO1075.

The following PRO polypeptides tested positive as inhibitorss of glucose and/or FFA uptake in this assay: PRO195, PRO322, PRO862, PRO868, PRO865 and PRO162.

EXAMPLE 118: Detection of Polypeptides That Affect Glucose and/or FFA Uptake in Skeletal Muscle (Assay 106)

This assay is designed to determine whether PRO polypeptides show the ability to affect glucose or FFA uptake by skeletal muscle cells. PRO polypeptides testing positive in this assay would be expected to be useful for the therapeutic treatment of disorders where either the stimulation or inhibition of glucose uptake by skeletal muscle would be beneficial including, for example, diabetes or hyper- or hypo-insulinemia.

In a 96 well format, PRO polypeptides to be assayed are added to primary rat differentiated skeletal muscle, and allowed to incubate overnight. Then fresh media with the PRO polypeptide and +/- insulin are added to the wells. The sample media is then monitored to determine glucose and FFA uptake by the skeletal muscle cells. The insulin will stimulate glucose and FFA uptake by the skeletal muscle, and insulin in media without the PRO polypeptide is used as a positive control, and a limit for scoring. As the PRO polypeptide being tested may either stimulate or inhibit glucose and FFA uptake, results are scored as positive in the assay if greater than 1.5 times or less than 0.5 times the insulin control.

The following PRO polypeptides tested positive as either stimulatorrs or inhibitors of glucose and/or FFA uptake in this assay: PRO181, PRO200, PRO1083, PRO865, PRO162, PRO1008 and PRO1330.

EXAMPLE 119: Stimulation of Heart Neonatal Hypertrophy (Assay 1)

This assay is designed to measure the ability of PRO polypeptides to stimulate hypertrophy of neonatal heart. PRO polypeptides testing positive in this assay are expected to be useful for the therapeutic treatment of various cardiac insufficiency disorders.

Cardiac myocytes from 1-day old Harlan Sprague Dawley rats were obtained. Cells (180 μl at 7.5 x 10^4/ml, serum $<0.1\%$, freshly isolated) are added on day 1 to 96-well plates previously coated with DMEM/F12 + 4% FCS. Test samples containing the test PRO polypeptide or growth medium only (negative control) (20 μl/well) are added directly to the wells on day 1. PGF (20 μl/well) is then added on day 2 at final concentration of 10^{-6} M. The cells are then stained on day 4 and visually scored on day 5, wherein cells showing no increase in size as compared to negative controls are scored 0.0, cells showing a small to moderate increase in size as compared to negative controls are scored 1.0 and cells showing a large increase in size as compared to negative controls are scored 2.0. A positive result in the assay is a score of 1.0 or greater.

The following polypeptides tested positive in this assay: PRO195, PRO200, PRO526 and PRO792.

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Date: April 24, 1998

To: Ginger R. Dreger
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Fax Number: 650-952-9881

Total number of pages including this page: One (1)

From: ATCC Patent Depository

Ref: Patent Deposit on behalf of Genentech, Inc..

pRK5-based plasmid DNA16438-1387 assigned ATCC 209771,
pRK5-based plasmid DNA26847-1395 assigned ATCC 209772, and
pRK5-based plasmid DNA52758-1399 assigned ATCC 209773

Date of Deposit: April 14, 1998. Paperwork will be forwarded to you in a few days. An invoice will be sent under separate cover as follows:

One time fee - 30 years	$ 1,800.00
Viability Test	450.00
Total amount due to ATCC 209771-209773	$ 2,250.00

Barbara Hailey

Barbara M. Hailey, Administrator
ATCC Patent Depository